

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DWAYNE FREEMAN,

Petitioner,

v.

Case No. 18-cv-0596-bhl

NICHOLAS REDEKER,

Respondent.

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**ORDER**

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On August 17, 2023 (following a long and winding procedural history dating back to 2018), the Court screened Petitioner Dwayne Freeman's amended petition for writ of habeas corpus under 28 U.S.C. § 2254 and allowed him to proceed on two grounds for habeas relief. (ECF No. 21.) On September 13, 2023, Respondent filed a motion to dismiss Freeman's second ground for relief, arguing that it is procedurally defaulted. (ECF Nos. 23 & 23-1.) Per the Court's screening order, Freeman had 45 days to respond to the motion but failed to do so.

On February 12, 2024, the Court ordered Freeman to respond to the motion to dismiss by February 26, 2024 and warned him that failure to comply may result in the Court granting the motion as unopposed. (ECF No. 24.) The Clerk mailed a copy of the order to Freeman at Chippewa Valley Treatment Facility, but it was returned as undeliverable. (ECF No. 25.) The Clerk then mailed the order to Freeman at the John C Burke Correctional Center. The Court has since been informed that Freeman is, in fact, located at Chippewa Valley. It is not clear why the Clerk's first mailing to him there was returned as undeliverable, but it appears that Freeman may not have received the Court's notice of his noncompliance and its warning that his petition may be dismissed.

Even an unrepresented litigant has an obligation to monitor developments in and prosecute his case. *See Jones v. Phipps*, 39 F.3d 158, 163–64 (7th Cir. 1994) (noting that neither incarceration nor lack of legal counsel, by themselves, justify “dereliction of litigation duties”). This duty includes a requirement that he keep the Court apprised of his mailing address. *See, e.g., Whitmore v. Godinez*, No. 12-cv-00638-MJR, 2013 WL 5230060 (S.D. Ill. Sept. 16, 2013)

(denying motion to reinstate where plaintiff failed to inform court of his change of address). Nevertheless, the Court is unable to confirm that Freeman received notice of the filings in this case, including Respondent's motion to dismiss and the Court's February 12, 2024 order. Accordingly, the Court will provide Freeman with one more opportunity to respond to the motion to dismiss. Freeman must file a response on or before **May 2, 2024**, or the Court may grant Respondent's motion as unopposed.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner Dwayne Freeman must file a brief in opposition to Respondent's motion to dismiss, ECF No. 23, on or before **May 2, 2024**. If Freeman fails to comply with this order, the motion may be granted as unopposed.

Dated at Milwaukee, Wisconsin on April 2, 2024.

*s/ Brett H. Ludwig*

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BRETT H. LUDWIG

United States District Judge